



Southern Agricultural Insecticides, Inc.

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US EPA
REGION 4
Atlanta Federal Center
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May 17, 2021

SENT VIA EMAIL TO RAMSAY.SETH@EPA.GOV AND USPS

Ms. Bingham,

In response to the FIFRA Notice of Warning, case file number FIFRA-04-2021-0708, Southern Agricultural Insecticides submits this explanatory letter and actions taken by Southern Ag to ensure compliance with FIFRA regulations.

ACTIONS TAKEN *PRIOR* TO FIFRA NOTICE OF WARNING

In 2017, Kelp Green was registered as a fertilizer for use in California. The label was approved for use as is except minor changes like the leading zero for the number of liters.

From 2017 – present, Kelp Green has been registered for use as a fertilizer in seven states. All states in which Kelp Green has been registered as a fertilizer have had no issues with the fertilizer label.

In the fall of 2019, Southern Ag was contacted by the Oregon Department of Agriculture (ODA) stemming from a complaint regarding the labeling of Kelp Green as a fertilizer. The issues presented by ODA were focused on Southern Ag's website and the use of the word hormones, reminding Southern Ag that any marketing material is an extension of our label.

During the fall of 2019, Southern Ag contacted our website management company to remove the non-compliant wording from the Kelp Green fertilizer landing page and from the product guide, which was also available on our website at the time.

ODA accepted Southern Ag's resolution of the issue.

ACTIONS TAKEN *AFTER* THE FIFRA NOTICE OF WARNING

After receiving the FIFRA Notice of Warning by the EPA, Southern Ag has taken numerous steps to bring marketing materials into compliance. The marketing materials addressed have been a review of our website. The website did not have a current photo of the Kelp Green fertilizer label. Looking at the online conversations with the website management company during the fall of 2019, there does not appear to be conversations about changing the photo. We have contacted our website management company and requested they replace the old product photo and label with the current photo and label.

Southern Ag looked at sales history over the last year to ascertain who is, and might be, an internet distributor by assessing who purchased five or more cases during a single transaction. We identified 13 companies who met those qualifications. We conducted an internet search for each of the 13 company's website. Locally owned home and garden centers had websites and for the most part, their websites were in compliance for Kelp Green fertilizer as an extension of the label.

Other marketing materials under review have been looking at what is on amazon, Walmart, and ebay. Southern Ag has been able to find 16 online listings for Kelp Green by 10 known distributors and two unknown distributors. When reviewing the distributor listings, common errors observed were not having an updated photo and label of Kelp Green fertilizer, having the statements in question by the EPA, and having a video linking to the statements in question by EPA.

The YouTube video discussing hormones in kelp has been removed. The Southern Ag sales representative for the distributors with noncompliant websites has been provided a pdf file of the distributor's online sale of Kelp Green fertilizer. In the pdf, Southern Ag has made comments addressing, and requesting removal of, questionable descriptions as well as updating the Kelp Green fertilizer photo that includes the correct label. For the online listings for which Southern Ag does not have a corresponding customer account, they have been provided the same pdf of their listing addressing non-compliant descriptions and/or photos of Kelp Green fertilizer.

STATEMENT INDICATING COMPLIANCE WITH FIFRA

Southern Ag is in conversation with distributors to ensure compliance with FIFRA. Since 2017/2018, Kelp Green fertilizer has not been marketed by Southern Ag with any descriptions which confuse the distinction between a fertilizer and a plant growth regulator. Therefore, Southern Ag is in compliance with FIFRA regarding Kelp Green fertilizer.

We are working with distributors to get them in compliance. As a small business, we only have, and need, one registration person. She will be monitoring the noncompliant websites for the above-described action items.

If any other information is needed, please feel free to contact us.

Sincerely,



John C. Diem
Owner, Southern Agricultural Insecticides, Inc.

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